

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LOVELL A. DAVIS, III,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 3:24-47
)	Judge Nora Barry Fischer
MICHAEL UNDERWOOD, WARDEN,)	Magistrate Judge Keith Pesto
F.C.I. LORETTO,)	
)	
Respondent.)	

MEMORANDUM ORDER

AND NOW, this 6th day of January, 2025, upon consideration of the Report and Recommendation filed by United States Magistrate Judge Keith A. Pesto on March 15, 2024, (Docket No. 6), recommending that the § 2241 habeas petition filed by Petitioner Lovell A. Davis, III against Warden Michael Underwood, be dismissed preservice either with prejudice because he failed to meet the pleading standards for habeas petitions and his petition consisted of “a first page alleging that petitioner was told in February 2024 that he is not eligible to have ETCs applied to his sentence under the First Step Act, a last page asking for a writ granting relief, and 22 pages in between that are nothing more than photocopied cases, statutes, and treatises, some with no conceivable relevance,” or, alternatively, that the petition be dismissed, without prejudice, because he failed to exhaust administrative remedies, Petitioner’s unsigned Response/Objections which was timely filed on April 1, 2024, and includes a request for administrative remedy form but no indication that he completed any other level of administrative review such that he has failed to establish that he exhausted administrative remedies prior to initiating this habeas action, (Docket No. 9), and this matter having been recently reassigned to

the undersigned for prompt disposition of the matter, (Docket No. 10), and upon independent review of the record and de novo consideration of the Magistrate Judge's Report and Recommendation, which is ADOPTED as the opinion of this Court,

IT IS HEREBY ORDERED that Petitioner's Objections (Docket No. 9) are OVERRULED, as dismissal of this action, without prejudice, for failure to exhaust administrative remedies, is consistent with rulings made in this District, *see e.g., Saavedra-Ramirez v. Peters*, No. 3:23-CV-268-KAP, 2024 WL 2136679, at *2 (W.D. Pa. Mar. 12, 2024), *report and recommendation adopted*, No. CV 3:23-268, 2024 WL 1550379 (W.D. Pa. Apr. 10, 2024), *appeal dismissed sub nom. Saavedra-Ramirez v. Dir. Fed. Bureau of Prisons*, No. 24-1738, 2024 WL 4677955 (3d Cir. July 18, 2024) (District Court upholding dismissal for failure to exhaust when the habeas petition was filed prior to the exhaustion of administrative remedies and appeal dismissed),

IT IS FURTHER ORDERED that the Petition (Docket No. 5) is DISMISSED, without prejudice, for failure to exhaust administrative remedies; and,

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

s/Nora Barry Fischer
Nora Barry Fischer
Senior U.S. District Judge

Dated: January 6, 2025

cc/ecf: Magistrate Judge Keith A. Pesto

cc: Lovell A. Davis, III
BOP Reg. No. 71819-509
F.C.I. Loretto
P.O. Box 1000
Cresson, PA 16630 (via first class mail)